



Dear Friends,

"*The dam has broken!*" That's what Merci, a member of our legal team, said as she worked on the summaries for this issue. We don't know if a dam has broken. We do know that since the Foundation began in March of 1992 we have never had so much pertinent positive news to report. It will take several months to discuss all that has appeared this summer in the legal, research and literary areas. This month we focus on legal cases and why understanding them is important to us all.

There are 7 appellate-level opinions described in this issue starting, with the long-awaited New Hampshire Hungerford appeal that upholds the 1995 decision of Judge Groff in the circuit court: "*the phenomenon of 'memory repression' ... is not generally accepted as valid and reliable by a respectable majority of the pertinent scientific community...*" We report on two types of appellate cases: those such as the New Hampshire decision in which the focus is on the issue of whether recovered/repressed memory testimony meets the standard of evidence to be allowed in the courts; and those in which the issue is the extension of the statute of limitations for filing a recovered/repressed memory case. All the reported decisions are consistent with the Foundation's position.

When a lawsuit is initiated, if it is not dropped, dismissed or settled, the first legal decision is at a "trial" level court. A decision at the trial level does not set precedent, although it may have an impact on the way similar cases are handled in the future. It is only when a trial decision is appealed and a judgment is entered at the appellate level that a decision becomes a guide for other courts in that jurisdiction. When the professional organizations fail to monitor themselves and when there is no government agency that can adequately protect mental health consumers, the courts become the tool of balance. The rulings in the current appellate courts are highly significant for all affected families whether they are directly involved in legal actions or not. These opinions will ultimately affect the direction and speed with which the recovered/repressed memory controversy fades as a major mental health issue.

A burgeoning type of legal action is that taken by formerly accused persons who turn the tables and sue those who accused them. George Franklin, whose daughter accused him of the alleged murder of Susan Nason on the basis of recovered memories, has brought a lawsuit against his daughter, her therapist, San Mateo CA prosecutors and expert witness Lenore Terr, M.D. for conspiring to wrongfully prosecute him. In this issue we also report on the first settlement, to our knowledge, of a family's action brought against the lawyer who represented their daughter in a lawsuit against them. Their daughter has not retracted.

In another legal direction, third-party standing to bring lawsuits is the issue in two on-going cases described in the legal section. The results of these cases may affect the possibility of future similar litigation.

On August 15, 1997 a Texas jury awarded former patient Lynn Carl \$5.8 million. As a result of the therapy she received from psychiatrist Gloria Keraga, M.D., Carl's whole family came to believe that Carl had practiced murder, cannibalism, sexual abuse and incest. Dallas attorney Skip Simpson, who represented Carl, argued that "This case was all about creating victims so the mental health field could have patients and expensive treatment." As described in the *Houston Chronicle*, 8/16/97, Simpson noted that "therapists implanted false memories that worsened Carl's condition so they could collect more than \$1.1 million in insurance."⁽¹⁾

The theme of psychiatric fraud was repeated this summer as Tenet Healthcare (formerly National Medical Enterprises) agreed to pay \$100 million to former psychi-

In this issue...

FMS News.....	2
Goodyear-Smith.....	4
Gregg.....	6
Legal Corner.....	7
Wasserman.....	13
Make a Difference.....	13
Lindsay, Tyroler, Feld.....	14
From Our Readers.....	14
Bulletin Board.....	18

atric patients for, among other things, providing unnecessary psychiatric treatment.^[2] In 1996 alone, Medicare fraud cost the United States \$23 billion or \$100 for each person in our country.^[3]

The repressed memory controversy differs from these examples, however, because it has gone several steps further than misusing money. It branded an innocent segment of the population as criminals. Beyond the harm done to those who received inappropriate, unscientific and incompetent therapy, a large number of loving family members were accused of criminal acts. An accusation of sexual abuse, even when proven unfounded, carries a potential life-long stigma. Statute of limitation laws were changed based on these ideas and the judicial process has been contaminated by unscientific beliefs.

Although there are many positive things happening that will ultimately bring relief to families, the grim reality is that thousands of families are still suffering the grief that comes with the loss of a child. The grim reality is that an increasing number of accusers are going to have to live the rest of their lives without closure because the parents they accused are dead. The grim reality is that the Souzas are still under house arrest and Bruce Perkins is still behind bars because of claims of recovered repressed memories. Gerald Amirault and too many others are still in prison—victims of day-care sex hysteria.

The growth of the recovered/repressed memory movement has been stopped; the number of new lawsuits against parents based only on recovered/repressed memories is negligible; and as an understanding of the phenomenon has been achieved, the work of the Foundation is shifting. We are increasingly called upon to help families in their struggle to reconcile, to assist former patients and to help all parties in their efforts to hold those who have harmed them accountable—damage control and mopping up. What is happening in the legal area now is critical to how the mopping up will proceed. It is unfortunate that professional issues are finding resolution through the courts because that brings a high social cost. However as Klerman noted in 1990, "The courts may be an appropriate arena for litigation when a small minority of the profession persist in practices that scientific evidence and professional judgment have deemed obsolete."^[4]

Pamela

1. Mark Smith, "Jury awards \$5.8 million in satanic memories case," *Houston Chronicle*, August 16, 1997. (We will include a full analysis of the Carl case in the October newsletter.)

2. Jo Ann Zuniga, "Tenet agrees to \$100 million settlement: Firm accused of imprisoning patients," *Houston Chronicle*, July 30, 1997.

3 "Medicare wastes billions as inept management rules," *USA Today*, July 21, 1997

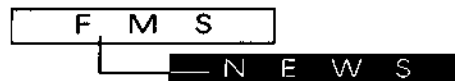
4 Klerman, Gerald (1990) The psychiatric patient's right to effective treatment: Implications of *Osheroff v. Chestnut Lodge*. *Am J Psychiatry* 147:4, 409-418, April.

special thanks

We extend a very special "Thank you" to all of the people who help prepare the FMSF Newsletter. **Editorial Support:** Toby Feld, Allen Feld, Howard Fishman, Peter Freyd. **Research:** Merci Federici, Michele Gregg, Anita Lipton. **Notices and Production:** Ric Powell. **Columnists:** Katie Spanuella and members of the FMSF Scientific Advisory Board. **Letters and information:** Our Readers.

"The intellectual battle may not be over yet, but the repressed memory forces are in full retreat. Scientific skepticism of the supposed phenomenon has never been higher, courts are belatedly taking long, critical looks at "recovered" memories of alleged childhood abuse, and the public at large has moved beyond unquestioning acceptance of such claims.

The Plain Dealer, July 13, 1997, Joe Dirck, Review of *Spectral Evidence*



First Major FMS Play

Alastair Macauley, *The Financial Times*, August 16, 1997.

In Britain, "Anna Weiss" by Mike Cullen has been receiving rave reviews. An example from the August 16 *Financial Times* described the play as "a riveting, even occasionally funny, play about—that currently hot potato—memory of child abuse allegedly recovered under hypnosis."

First FMS Novel

The first FMS novel, to our knowledge, is entitled "Try to Remember" by Zane Kotker (Random House). Early comments indicate that its strength is its insight into the ease with which a person may be open to and even seek out influence leading to false memories. The story is about a family in which one of two daughters develops false memories. This book will be reviewed in a future Newsletter.

Headline in August, 1997 APA Monitor

"WWII veterans provide evidence of repressed memories"

The article on which the headline is based is "Repressed Memories and World War II: Lest We Forget!" by Bertram Karon and Anmarie Widener, *Professional Psychology: Research and Practice*, V28 (4) pp 338-340. It describes a case study done 20 years ago by the author's brother.

Editor's Comment: Most scientists reject a case study or even many case studies as "evidence" of the sort implied in the headline. An excellent description of the reasons for this can be found in Harrison Pope's, *Psychology Astray: Fallacies in Studies of "Repressed Memory" and Childhood Trauma*.

Videotaped Discovery of a Reportedly Unrecallable Memory of Child Sexual Abuse: Comparison With a Childhood Interview Videotaped 11 Years Before.

D. L. Corwin and E. Olafson *Child
Maltreatment*, Vol 2 (2) May 1997, 91-112

Hailed by some as evidence of recovery of a repressed or traumatic memory, this case study places the complex issue of corroboration in the limelight and raises some ethical issues. Presented are transcripts of interviews done by Corwin with Jane Doe at ages 6 and 17. He interviewed Jane at age 6 in the context of a legal/custody case in which the father claimed the mother had sexually and physically abused the child. Before Corwin's first interview, Jane told of the abuse in interviews by both a police investigator and her therapist. Corwin's initial interview supported Jane's sexual abuse allegation. Interviewed at age 17, Jane was renewing a relationship with her mother and appeared to have forgotten her earlier claims of abuse. When asked directly about the earlier accusations, Jane did remember. Corwin remarks that she was aware that she was about to be shown a videotape of the earlier interview.

A number of professionals were asked to comment on these tapes. Paul Ekman, for example, analyzes Jane's eye closures noting "I suspect these long closures are signs that she continues to repress some of the memories of what happened to her as a child. I have found long eye closures such as these within clinical cases where repression is occurring and in deliberate lies with normal subjects." Frank Putnam suggests that the interviews were a model of technique for forensic interviews of young children. D. Stephen Lindsay questions this and provides examples of Corwin asking leading questions.

Ulric Neisser is cautious about what can be concluded from the tapes, noting that comparisons of statements

in the earlier and later interviews show that Jane's first recovered memory is entirely false and the second is "substantially misleading." He writes that "It is never a good idea to jump to conclusions where memory is concerned."

Lindsay raises the ethical concern of "seeking out the subjects of such interviews and revisiting their content." Was Jane able to continue the process of reconnecting with her mother after the interview at age 17?

Notably missing from any part of this discussion is the accused mother. Why was she not also interviewed? Newsletter readers may also wonder what happened in the interviews before Jane spoke to Corwin? This article and comments show the complexity of the concerns of corroboration and ethics in these cases.

\$100 Million Settlement for 700 Former Psychiatric Patients

New York Times, July 30, 1997

In 1994 National Medical Enterprises' psychiatric subsidiary pleaded guilty to Federal conspiracy charges for paying kickbacks and bribes to doctors between 1986 and 1991. At that time, NME paid about \$375 million in fines and penalties. The company sold its psychiatric hospitals to Tenet Healthcare Corporation.

In July, 1997 Tenet Healthcare Corporation has paid about \$85 million to settle 620 patient cases filed in Conroe, Texas and about \$12 million to settle about 60 cases brought in Fort Worth. In addition, the doctors who were involved in these cases have agreed to pay \$20 million in compensation to the patients. There are about 300 similar cases outstanding. The former patients said that they had been admitted to the hospitals for their insurance. Indeed, they said that they were rarely released until their insurance benefits were used up. They claimed they did not receive appropriate care and were sometimes put in

restraints. Some complained that they were not permitted to get in touch with family members or make telephone calls.

According to the *NY Times* report, the case of one child exemplified many others. "After his parents' divorce, Matthew, then 8 years old, began to experience behavioral problems. A social worker with a business relationship with a doctor associated with National Medical encouraged his mother to admit Matthew to the hospital. When the boy resisted, he was threatened with being placed in a straitjacket and was physically restrained. While his mother was assured that he only needed hospitalization for a few days, Matthew, who was not examined by a doctor before his admission, was kept a total of 61 days. When he was released, he had no insurance benefits left."

Audit of Medicare Finds \$23 Billion in Overpayments

New York Times, July 17, 1997

Medicare wastes billions in
inept management rules.

USA Today, July 21, 1997

The first comprehensive audit of Medicare federal auditors said that the government had overpaid hospitals, doctors and other health care providers last year by 14% - or \$23 billion - one out of every \$7. According to the report in *USA Today*, that amounts to \$100 a year for every person in the country. The report noted, among other things, that payments were recorded as improper when medical records did not show a need for the services provided.

Ontario Health Department Study

MacMillan et al "Prevalence of
Child Physical and Sexual Abuse in the
Community," *JAMA*, 7/9, 1997 V 278 (7)

Results of a study based on data
from 13,002 Ontario households in the

general population showed a prevalence rate of sexual abuse for females of about 13%. What was striking in the study is that adults who were unrelated by either blood or marriage were most often identified as sexual abusers. The common belief has been that parents and step-parents are usually perpetrators of sexual abuse. "Some other persons were most often indicated as perpetrators of sexual abuse followed by other relatives across age categories." (p 134) Limitations of the study are that it was self-report, retrospective, and the time included as childhood was vague.

Mere Memory Testing Creates False Memories in Children

C.J. Brainerd and V.F. Reyna,
Developmental Psychology 1996 Vol 32,
No 3, 467-478.

Although it has been reported that initial recall tests inoculate true memories against forgetting without creating false memories, this is not the case for recognition tests. In two experiments with 5- and 8-year-olds, initial recognition tests elevated children's false-memory responses.

You Must Remember This

Sandra Martin
Chatelaine, September 1997

Chatelaine is the first Canadian magazine to explore the recovered memory controversy in depth. Sandra Martin does this by focusing on one family that exemplifies "... the many human casualties in the bloodiest gender war of the century." The following excerpt from the concluding paragraph of the article provides insight into the status of the controversy at this point in time.

"Recovered memory therapy is different: it works with memories as though they are facts, and seeks resolution in part through blaming and confrontation. In researching this article I consulted several psychiatrists and

therapists. None of them, including a crisis intervention social worker and a psychotherapist who have participated in family confrontations in the past, now recommends to their patients that they act on the memories that are reconstructed in the therapy room."

Notes from New Zealand Felicity Goodyear-Smith, M.D.

I first began to work in the sexual abuse field in the early 1980s when, as a family physician, I was appointed as a Police Doctor specializing in sexual assault forensic examinations. I became active in training doctors and other professionals in this field; administering a sexual assault medical and counselling centre; and assisting in the preparation of professional guidelines for investigation and management of sexual assault. By the mid 1980s I had become concerned that some of our cases were based on false allegations, especially when it was a concerned adult who believed a child was being abused, even though the child denied it. This was worrying in the context of disputes over custody when parents had separated.

A belief that false allegations did not happen colored how some professionals approached these cases. When I expressed my concerns to my colleagues, the response astounded me—I was accused of denying sexual abuse, and colluding with offenders. Doors slammed and I became a pariah in many clinical circles. I began to research the area of children's testimony and the nature of memory; I learned how easily memories can be distorted or even created by suggestion; and I contacted experts in other countries with concerns similar to mine. I realized that this problem had stemmed from the United States and that we had misguidedly imported a lot of misinformation.

After my attempts to disseminate information about memory and false

allegations failed, in 1993 I published what I had learned in a book, *First Do No Harm: the Sexual Abuse Industry*. Shortly thereafter, I started to access papers about the "False Memory Syndrome" and learned about the FMS organization and its incredible growth during its first two years of existence.

There was a steady flow of families contacting me with tragic stories of their children removed from their care by social services acting on faulty sexual abuse "indicators" (such as girls with hymen openings over 4 mm, now accepted as normal), and men being denied access to their children when false sexual allegations were made in the context of acrimonious custody disputes.

At the end of 1993, I suddenly began to hear from families throughout New Zealand where allegations were being made, usually by an adult daughter who had recalled during therapy that she had been horribly sexually abused as a child. Over the next twelve months I heard from more than 100 families with these sorts of stories. This may seem very few relative to the 1,400 plus families who contacted FMSF in its first year, but it should be appreciated that ours is a small country, with a total population of less than four million. There were no services available at all for these people. Because there was nowhere to send them, I set up, with the help of others, our national organization COSA (Casualties of Sexual Allegations Inc.). COSA is the NZ equivalent of the FMSF, but our scope is broader, dealing with the effects of false sexual allegations arising in any context. Membership includes those who claim false sexual allegations of any nature, their families and supporters; and concerned professionals and members of the public. We also have had a few retractors make contact. Some men have written from prison, convicted on the basis of recovered memories of their daughters and other relatives,

whose defence had never addressed the issue of the potential unreliability of memories "recovered" in therapy using hypnosis or similar techniques. A number of our members were facing criminal charges.

During 1994 and 1995 the media ran some very responsible stories about the potential problem of memories recalled during therapy, and expert witnesses for the defence were able to testify about the memory repression and recovery debate. There were several high-profile cases involving COSA members who were acquitted of all charges, and it is now unlikely that the police would bring charges where the testimony of the complainant can be shown to be based on "recovered memories."

In late 1994 I was awarded a Fellowship enabling me to attend the Johns Hopkins/FMSF conference "Memory/Reality: Reconciliation." One of the conditions of my Fellowship was to present the conference findings at post-graduate medical meetings throughout New Zealand the following year. However, a highly influential and wealthy group, Doctors for Sexual Abuse Care (DSAC), sent letters to all the Post-Graduate Medical Societies, Law Societies and a number of other institutions and organizations, urging them not to allow me to address their members. They objected that my "views on memory and sexual abuse are strongly influenced by the False Memory Syndrome Foundation" which they claimed "advances a very polarized position on memory and significant emotional trauma." As a result, most of my speaking engagements were cancelled.

Over the past few years, Doctors for Sexual Abuse Care (DSAC) and the New Zealand Psychological Society have actively campaigned to have me deregistered as a doctor and to prevent my publishing and lecturing in this field. When DSAC was first set up, I was made an honorary life member in

recognition of my pioneer work. However in the intervening years, there has been an increasing divergence between DSAC's perspective and my own. DSAC has promoted the belief that false allegations are extremely rare (in 1993 their president reported that she had "never known a false allegation get through") and that all complaints should be treated as genuine. Over the past few years they have sponsored a stream of international speakers to New Zealand to teach professionals. These include Roland Summit, John Briere, John Conte, Judith Herman, Arno Bentovim, Bessel van der Kolk, and Christine Courtois. Academics and clinicians who challenge the use of memory recovery techniques and the validity of "recovered memories" have been conspicuous by their absence.

Despite DSAC, there has been considerable shift in the last year or two. Public awareness has been raised regarding the way both adults and children can make false allegations, and understanding how susceptible our memories are to the influences of suggestion. This knowledge has also spilled over to professionals in the field. Professional bodies are developing guidelines with respect to recovered memories. I think that the "recovered memory" phenomenon has peaked. We are not out of the woods yet. We are seeing a growing number of cases where a woman initially has said she has recovered a memory of childhood molestation, but later claims that actually she has always remembered the abuse. Given the powerful, vivid and emotionally loaded quality of recovered memories, it is not surprising for a woman to be astounded that she could have forgotten such trauma, and convince herself that somewhere deep down she always really remembered it.

This was clearly demonstrated in one of the "recovered memory" trials in 1994. The defendant's daughter tes-

tified that she had always remembered her abuse. Her psychologist had shredded her counselling notes prior to the trial, but she testified that her client had always remembered her abuse. However, in her initial police statement the daughter was recorded as saying that she had first remembered the abuse during the course of her therapy.

In the last few years, a number of other cases have come to our attention where the initial allegation was said to be based on a recovered memory, but a year or two later the complainant now says that this is a memory she has always had. Whether a memory is reported to be continuous or recovered, in the absence of corroboration there is no way to establish whether it represents a real or a fictitious event. Complainants are less likely to say that they had always remembered the abuse in the United States, because a Statute of Limitations allows law suits relating to alleged long ago events on the basis that the Statute starts from the time the "memory" was exhumed. Someone who claims she always remembered the abuse therefore cannot take legal action against the accused. Because New Zealand does not have a Statute of Limitations, all that is required is for the complainant who first makes her allegations during psychotherapy to say that somewhere she always really remembered it. Therapists now talk about "enhancing" rather than "recovering" memories.

COSA has had relatively few contacts this year where "recovered memory" is clearly identified as the basis for an allegation, and it seems that mental health professionals are far more aware of the potential danger of recovered memory techniques. However, a belief that one in three girls have been sexually abused, and that a vast array of problems and symptoms are caused by childhood sexual abuse, still means that mental health professionals have it "top of their list" and are actively looking for

sexual abuse histories and uncritically believing clients who say they are sexual abuse survivors. We may be over the worst of the problem, but we still have a way to go.

Felicity Goodyear-Smith, M.D., Hon Research Fellow, Dept of Psychiatry & Behavioural Sci., U of Auckland

Abuse Revisited: 15th International VOICES In Action Conference

Michele Gregg, MSW, ACSW

I recently attended the VOICES In Action Conference "From Fear to Freedom" (July 24-27, 1997) in San Francisco. VOICES In Action, Inc. is an international organization which represents incest and sexual abuse survivors and their supporters. Among the special interest groups listed in the VOICES newsletter are those for survivors with dissociative disorders and with difficulty in retrieval of memories. Participants at this conference included survivors and their partners, therapists and therapist-survivors.

My interest in attending the conference came from both my professional experience as a social worker in the department of CPS and my personal experience as a sister of an accuser. One of the consequence of my sister's recovered memory therapy was a "sisterectomy."

The VOICES Pre-Conference Institute Day began with a discouraging reminder that the recovered memory controversy has become all too personal. For example, author and expert witness Jon Conte, Ph.D. in his workshop "Managing Memory in Psychotherapy," said that memory researcher Elizabeth Loftus, Ph.D. "grossly mis-states science" and that it is all he can do to "keep from slashing the tires of her car" when he sees it parked at the University of Washington.

Approximately 80 people attended

the keynote speech given by Beverly Engel, MFCC, author of *Divorcing a Parent*. In her book, Ms Engel provides a sample "Declaration of Divorce" stating "... one-fourth to one-half of all adult children from dysfunctional families choose to divorce one or both parents."⁽¹⁾ In her talk, she mentioned divorcing her own mother and about her appearance on "Phil Donahue" discussing the need to divorce parents with her clients. However, she also noted some positive outcomes of the "backlash" such as awareness that some therapists overly influence their clients and that too many hospitals developed sex abuse units only "cash in" on the profits of the survivor movement.

Ms. Engel indicated that both she and Laura Davis⁽²⁾ have reached a point in their lives where they feel they no longer have to "focus on incest" and that they are "ready to move on." Engel also said she now realizes that her previous focus on sex abuse hampered her own personal growth. She further stated that she has "rediscovered spirituality" and her identification includes artist and nature lover.

Some VOICES workshops likewise echoed this theme of "moving on." For example, in his workshop "Frozen in Time: Solution Oriented Methods for Resolving Sexual Abuse" Bill O'Hanlon, MS, presented alternatives to "reliving the trauma." Some of the participants in this lively and well-attended workshop complained about therapists who insisted that they continue to deal with the past. Mr. O'Hanlon explained that Freud is to blame for those therapists who practice "trauma drama" and see moving on as denial. Instead, he presented pragmatic suggestions for handling compulsive behaviors and obsessive thinking.

Another present/future-oriented workshop was Mary Catherine Arango's "The Fine Art of Self-Sabotage." Participants seemed espe-

cially attentive to Ms. Arango talk concerning basic concepts of personal finances. Many of the questions and comments indicated that these participants may have serious problems in this area. Ms. Arango disclosed that she had emotionally abused her own daughter and told how she dealt with her problem. The participants seemed engrossed in Ms. Arango's personal narrative.

In the silence following Ms. Arango's account, my mind raced. In this self-absorbing, self-promoting culture of survivors, what has been happening to their own children? Have these survivors been abusing or neglecting their own children? Given the current cultural penchant of demonizing parents, would any parent seek help in such a climate? And, are therapists screening this population (survivors) for abuse or for deficient parenting skills? What is going to be the long-term impact of inappropriate cut-offs from supportive grandparents, aunts and uncles?

At a workshop entitled "Dissociation: The Daily Struggle for Freedom" with Caryn StarDancer and Lynette Danylchuk, the energy level among participants seemed noticeably low. This workshop seemed to attract participants who were self-disclosed multiples. Many appeared pale and to have vacant looks.

I came away from the conference convinced that other professionals would also benefit from attending similar meetings. By gaining insight into the survivor's perspective, professionals may better understand the issues involved in the controversy, and, more important, what needs to be done to solve the myriad problems that lie in the wake of the recovered memory movement.

1. Engel, B. (1991) *Divorcing a Parent*. New York: Ballantine Books. p.1

2. Laura Davis, coauthor of *The Courage to Heal* (1988) with Ellen Bass.

Michele Gregg is a volunteer researcher for the FMSF Newsletter.

FMSF Staff

APPELLATE-LEVEL DECISIONS

**NEW HAMPSHIRE SUPREME COURT
RULES REPPRESSED MEMORY
TESTIMONY UNRELIABLE**

State of New Hampshire v. Hungerford / Morahan, 1995 WL 378571 (N.H. Super. Ct. May 23, 1995), *aff'd*, 1997 WL 358620 (N.H. July 1, 1997) ^[1]

In a much-anticipated decision, the New Hampshire Supreme Court upheld the trial court's ruling that the repressed memory testimony presented in these two criminal cases was not sufficiently reliable to be admissible as evidence. The ruling affirmed Superior Court Justice William J. Groff's May 1995 decision which, following two-week long admissibility hearings and a thorough factual review, concluded in a 35-page decree that the phenomenon of memory repression and the process of therapy used to recover the memories have not gained general acceptance in the field of psychology and are not scientifically reliable under either a *Frye* or *Daubert* analysis.^[2]

The court addressed the State's argument on appeal: 1) that the trial court erred in requiring a preliminary showing of reliability or general acceptance before the witnesses' testimony would be admitted; and 2) that, assuming the preliminary showing was required, the trial court erred in concluding that the State failed to make such a showing.

The court disagreed with the State's contention that repressing and retrieving memories are normal human functions and that such evidence is not beyond the average juror's ability to comprehend. Citing the division within the psychological community on the issue of memory repression, the court concluded that ordinary jurors could not be expected to analyze such claims without the assistance of experts. The court held that the trial court correctly ordered a pretrial hearing on admissibility and properly ordered that the State bore the burden to present expert testimony to explain such evidence.

Following a review of case law from other jurisdictions and relevant psychological literature, the court concluded that the admissibility of refreshed recollection should be approached on a case-by-case basis, tempered with skepticism. The court further expressed concern about the influence of therapy on recovery of memory, stating, "[W]e do not mean to suggest that all or even a majority of recovered repressed memories are 'false.' Rather, we merely recognize that memories are subject to many factors that may

affect their reliability, especially, as the trial court found in the instant cases, the uniquely suggestive environment of psychological therapy."

In order to determine the reliability of a recovered memory, the court listed an eight-pronged test for trial courts to follow before such evidence may be allowed: 1) the level of peer review and publication on the phenomenon of repression and recovery of memories; 2) whether the phenomenon has been generally accepted in the psychological community; 3) whether the phenomenon may be and has been empirically tested; 4) the potential or known rate of recovered memories that are false; 5) the age of the witness at the time the event or events occurred; 6) the length of time between the event and the recovery of the memory; 7) the presence or absence of objective, verifiable, corroborative evidence of the event; and 8) the circumstances attendant to the witnesses' recovery of the memory, i.e., whether the witness was engaged in therapy or some other process seeking to recover memories or likely to result in recovered memories [citations omitted].

Applying the above criteria to the cases before it, the court concluded, *inter alia*, that the phenomenon of repressed memories has not gained general acceptance in the psychological community. (Cf. *Daubert*, 509 U.S. at 594). Although the court did not find the second element conclusive of admissibility alone, it did find that the phenomenon had not reached the point where these particular memories could be found reliable. However, in conclusion, the court stated, "in a particular case, the court may be satisfied with the state of the scientific debate on the question of recovering repressed memories and with the general indicators of reliability surrounding a particular recovered memory. If that memory is recovered in the context of therapy, however, we still will be greatly concerned with the suggestiveness of the therapeutic process, and its ability to skew memory and one's confidence in memory [citations omitted]."

On July 18, 1997, Assistant Hillsborough County Attorney Marguerite Wageling dropped charges against defendant Joel Hungerford, and earlier in the week Assistant County Attorney John B. Weld dismissed charges against John Morahan. The two defendants applauded the high court ruling, saying that the false accusations put their lives on hold for five years, cost them close to \$100,000 each and severely damaged their reputations.^[3]

The New Hampshire ruling has already been cited favorably by the North Carolina Court of Appeals in the matter *Barrett v. Hyldborg* and applied to another criminal case involving repressed memory testimony before the same court in *State of New Hampshire v. Walters* (reported elsewhere in this Newsletter).

¹ See FMSF Publication No. 809 (FMSF *Amicus Curiae* brief filed on behalf of defendants/appellees); FMSF Publication No. 827 (transcripts of expert testimony

at admissibility hearings held March 27-April 7, 1995); and FMSF Brief Bank No. 10.

2 *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) [whether theory has gained general acceptance in relevant scientific community]; *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S.Ct. 2786 (1993) [criteria determining soundness of scientific evidence sought to be introduced includes whether the theory 1) has been tested; 2) subjected to peer review and publication; 3) has a known rate of error; 4) has gained general acceptance within the relevant scientific community].

3 West, Nancy, "Ruling doesn't end debate over repressed memory," *The Union Leader* (Manchester, NH), July 20, 1997, Section A, p. 1.



REPPRESSED MEMORY EVIDENCE RULED INADMISSIBLE IN CALIFORNIA

Engstrom v. Engstrom, in the Court of Appeal of the State of California, Second Appellate District, Division Two, B098146 (1) (June 18, 1997).

In an unpublished opinion, a California Court of Appeal affirmed the Superior Court's judgment of non-suit, finding that the trial court properly held that the standard of admissibility of evidence under *Kelly-Frye* (2) had not been met and that plaintiff was rightly precluded from testifying to any recovered repressed memories. Following an evidentiary hearing, the trial court found that "the phenomenon of 'memory repression' ... is not generally accepted as valid and reliable by a respectable majority of the pertinent scientific community and ... the techniques and procedures utilized in the retrieval process have not gained general acceptance in the field of psychology or psychiatry." However, the court indicated that if any memories of childhood sexual abuse were not generated during therapy, he could still appear as a witness. Since appellant had no such memories and lacked evidence of abuse from any other source, the trial court granted non-suit.

The Court of Appeal concurred with the lower court's finding, stating: "[a]s the evidence below made clear, whether or not one ascribes to what the trial court denominated 'the phenomenon of 'repressed memories,' it is generally agreed there is no way, in the absence of independent corroboration, which was absent here, to ascertain whether a person whose memory has been revived through a process of therapy such as guided imagery is relating actual facts or pseudomemories."

Further, the Court of Appeal disagreed with appellant's argument that California Civil Code of Procedure, childhood sexual abuse statute, Section 340.1 should be interpreted as "manifesting an intent by the state Legislature to embrace the concept of repressed memory as valid evidence." The court stated that "Section 340.1 has nothing to do with the admissibility or competency of evidence related to 'the phenomenon of repressed memories.' It is a statute of limitations provision."

On July 28, 1997, appellant petitioned the California Supreme Court for review(3) to "resolve the important questions of California Law concerning the applicability of tes-

timony of alleged survivors of childhood sexual abuse of the *Kelly-Frye* Rule, *People v. Shirley* (4) and CCP 340.1." (5)

1 See, FMSF Publication No. 810, FMSF *Amicus Curiae* Brief filed on behalf of defendant/appellee; Also, see FMSF Brief Bank No. 63; FMSF Newsletter, October, 1995.

2 *People v. Kelly* (1976), 17 Cal.3d 24; *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923).

3 *Engstrom v. Engstrom*, in the Supreme Court of the State of California, 2 Civil No. B098146, "Petition for Review from the Superior Court of Los Angeles."

4 Appellant's petition asks the court to review whether the *Kelly-Frye* Rule should be extended past *People v. Shirley* (1982) 31 Cal.3d 18 to include all non-hypnotic therapy and guided imagery therapy.

5 Appellant's petition further asks the court to review whether the legislature's extension of the statute of limitations for adult survivors of childhood abuse is a recognition that the judicially created *Kelly-Frye* Rule does not apply to recovered memories of such abuse in a cause of action under CCP 340.1.



NORTH CAROLINA COURT OF APPEALS RULES TO EXCLUDE EVIDENCE OF MEMORY REPRESSION ABSENT EXPERT TESTIMONY ON THE PHENOMENON

Barret v. Hyldburg, __ S.E.2d __
(1997 WL 434876 (N.C.App.))

The North Carolina Court of Appeals, recognizing that plaintiff's appeal of the trial court's grant of defendant's motion *in limine* (1) was premature, nevertheless elected in its discretion to affirm the lower court's finding on the single issue presented, i.e., plaintiff's testimony as to her allegedly repressed memories was precluded absent accompanying expert testimony, explaining to the jury the phenomenon of memory repression. The court, citing the *Hungerford* decision, stated: "A New Hampshire court has spoken on the subject with precision: ... [T]o argue that a jury could consider such a phenomenon, evaluate it and draw conclusions as to its accuracy or credibility without the aid of expert testimony is disingenuous to say the least."

In addition, the appellate court noted that there was a second determination contained in the trial court's detailed Memorandum and Order dated February 26, 1996 which was not presented by plaintiff on appeal, to wit: even if plaintiff were to proffer expert testimony regarding the phenomenon of memory repression, such testimony would be excluded because of the lack of scientific assurance of the reliability of repressed memory as an indicator of what actually transpired in the past. The court noted, however, that this second issue was not raised by plaintiff and, in addition, was premature because it was an appeal of an interlocutory [interim] judgment, was subject to change at trial and did not fit statutory requirements for appeal prior to final judgment. Therefore, the court stated that it would not rule on this issue until a final judgment had been rendered and it was properly before the court on appeal.

1 Motion *in Limine*. A motion used to exclude reference to anticipated evidence claimed to be objectionable until the admissibility of the questionable evidence can be determined either before or during the trial by presenting to the court, out

of the presence of the jury, offers and objections to the evidence [citations omitted]. The motion seeks to avoid injection into trial of irrelevant, inadmissible or prejudicial evidence at any point ... and therefore prevents mistrials based on evidentiary irregularities. Gifis, S.H., *Law Dictionary* (1991), Barron's Educational Series, Inc.: New York



NEW HAMPSHIRE SUPREME COURT REVISITS ADMISSIBILITY OF REPRESSED MEMORY TESTIMONY AFTER HUNGERFORD ⁽¹⁾

State of New Hampshire v. Walters, 1997 WL 937024 (N.H., August 6, 1997), *slip copy*.

The New Hampshire Supreme Court reversed the lower court's ruling which had allowed complainant's repressed memory testimony in a criminal sexual assault trial. The complainant and her therapist testified at an evidentiary hearing that she had three nightmares during which she had "flashbacks" consisting of glimpses of her stepfather abusing her when she was nine or ten years old. After considering the record of the pretrial admissibility hearings in Hungerford and following a brief hearing on the facts of the case, the trial court ruled that the complainant's testimony was admissible and that the testimony was not subject to the threshold reliability requirements of expert testimony.

The New Hampshire Supreme Court addressed two issues on appeal: whether the trial court erred in placing the burden of proof on the defendant to demonstrate the unreliability of recovered memories and whether the court erred in ruling that the testimony was admissible. Citing Hungerford, the court confirmed that the proponent of repressed memory testimony must demonstrate that the testimony is reliable and ruled that "the trial court erred in placing the burden on the defendant to demonstrate that recovered memories are not reliable." In addition, the court reiterated that recovered memories must satisfy the eight-pronged admissibility test enunciated in Hungerford in order to demonstrate that the testimony is reliable. Noting the difficulty the defense would face in "cross-examining a dream to expose its weaknesses or flaws," the court concluded by reiterating its ruling in Hungerford, stating, "[t]he indicia of reliability present in the particular memories in [this] case[] do not rise to such a level that they overcome the divisive state of the scientific debate on the issue" [citations omitted].

1. State of New Hampshire v. Hungerford/Morahan, 1995 WL 378571 (N.H. Super Ct., May 23, 1995) *aff'd*, 1997 WL 358620 (N.H. July 1, 1997).



MASON, ET AL. v. ARCHDIOCESE OF DETROIT

(*Lawyers Weekly* No. 29995) (unpublished *per curiam*) (Taylor, Griffin and Saad, JJ.). *Michigan Lawyers Weekly*, July 21, 1997
Tort: Sexual Abuse—No Repressed Memory

In an unpublished opinion, the Michigan Court of

Appeals affirmed the trial court's finding that the statute of limitations had run in a repressed memory suit. Plaintiff, 36 years old, sued defendants in 1994, alleging defendant priest sexually abused him when he was 12 years old. Plaintiff argued that he had repressed the memory of the abuse until 1993. The Court of Appeals noted that there was sufficient evidence to show that he did not repress the memory of the alleged abuse and, therefore, the trial court properly found that the statute of limitations had run.



TEXAS COURT REVISITS DECADE-DELAYED CLAIM AFTER S.V. v. R.V. ⁽¹⁾

Marshall v. First Baptist Church of Houston, 1997
WL 398859 (Tex. App. Hous. 14 Dist.), *slip copy*.

Plaintiff filed this negligence suit against the First Baptist Church on January 6, 1994, alleging the Church was liable for a continuing course of actionable conduct which included alleged sexual assault by a music director when plaintiff was 12 years old and inaction by Church officials after reporting the incident. The Court of Appeals affirmed the trial court's grant of summary judgment to the Church, finding the claim time-barred by the applicable statute of limitations.

Plaintiff raised seven points of error on appeal which the court reduced to four basic arguments to avoid the limitations bar. This article addresses only the first of these four points of error, ⁽²⁾ i.e., whether the discovery rule should apply to defer the cause of action. The court noted that the discovery rule applies in limited situations where the wrongful act and resulting injury are inherently undiscoverable at the time they occurred but may be objectively verified. (S.V., 933 S.W.2d at 6). Plaintiff alleged that he did not know that his psychological problems ⁽³⁾ were related to the acts of the Church and, therefore, the inherent undiscoverable requirement of the discovery rule should apply. The court disagreed, finding that the evidence in the trial court showed that the plaintiff was clearly aware of both the alleged wrongful acts and the injury and, therefore, the inherently undiscoverable prong of the discovery rule was not satisfied. The court stated, "[W]e will not expand it [the discovery rule] to include those cases in which appellant is fully aware of the act and the injury but failed to make the causal connection between the two." Because the element of "inherently discoverability" was not satisfied, the court was not required to address the second element of whether the alleged act and resulting injury were objectively verifiable."

1 S.V. v. R.V., 933 S.W.2d 1 (Tex., 1996). The Texas Supreme Court held that in order to apply the discovery rule to any set of facts, including repressed memory claims, the event and the injury must be inherently undiscoverable and objectively verifiable. See full text of decision dated March 14, 1996 (FMSF Publication No. 840) and FMSF *Amicus Curiae* Brief filed in support of petitioner (FMSF

2 The court disagreed with the remaining arguments which included claims that the Church's conduct constituted a continuing tort and breach of contract and that Plaintiff's mental incompetency should have deferred accrual of his cause of action.

3 Plaintiff began receiving counseling on July 23, 1990 and on February 21, 1991, he was hospitalized for depression and anxiety attacks. A psychiatrist diagnosed Plaintiff with Multiple Personality Disorder and severe Post Traumatic Stress Disorder.



WISCONSIN SUPREME COURT RULES STATUTE OF LIMITATIONS BARS CLAIMS OF 7 PLAINTIFFS ALLEGING SEXUAL ABUSE BY CLERGY.

John BBB v. Archdiocese of Milwaukee,
565 N.W.2d 94 (Wisc., June 27, 1997)

The Wisconsin Supreme Court recently affirmed the circuit court's dismissal of plaintiffs' complaints in seven consolidated cases involving allegations of sexual abuse by four priests employed by the Archdiocese of Milwaukee. Five of the plaintiffs claimed that they only recently realized the psychological and emotional harm caused by the alleged abuse (Type 1) and two of the plaintiffs claimed they repressed the memory of the incidents and the identity of their abusers (Type 2). The court, applying the discovery rule to these cases, concluded that the plaintiffs' claims were barred by the applicable statute of limitations.

The court held that because the Legislature extended the statute of limitations for claims of incest and sexual exploitation by a therapist¹ and not for other types of sexual assault involving minors, the complainants had two years of reaching adulthood to bring a claim under Wisc. Stat. § 893.33. In addressing the two Type 2 repressed memory claims and after a review of case law in other jurisdictions,² the court concluded that it would be contrary to public policy, and would defeat the purposes of limitations statutes, to allow claims of repressed memory to invoke the discovery rule to indefinitely toll the statutory limitations. The court noted the "valuable public policy goals served by statutes of limitations, namely preserving a plaintiff's right to bring a claim juxtaposed with a defendant's right to be free of stale and potentially fraudulent claims."

1 Wis. Stat. § 893.587 (1995-96) [Incest; limitation. An action to recover damages for injury caused by incest shall be commenced within 2 years after the plaintiff discovers the fact and the probable cause, or with the exercise of reasonable diligence should have discovered the fact and the probable cause of the injury, whichever occurs first.] and §895.585 (1991-92) [Sexual exploitation by a therapist]

2 Citing, *inter alia*, S.V. v. R.V., 933 S.W.2d 1 (1996) and Doe v. Maskell, 679 A.2d 1087 (Md. 1996) *cert. denied* 117 S. Ct. 770 (1997).



TRIAL LEVEL DECISIONS

Court urges 'discovery rule' for repressed sex-abuse memories

The New York Law Journal, July 21, 1997. Pietro v. Wilkinson, Supreme Court, Civil Suits for Queens County, New York, No. 02538295, The Hon. Frederick D. Schmidt (N.B. In NY the Supreme Court is a trial level court)

Plaintiff brought a civil suit for alleged sexual abuse from ages 10 to 13. Plaintiff claimed that it was not until 1993 that she, through therapy, was able to remember the alleged abuse. She also claimed that she was so psychologically damaged that she was unable to commence this action until 1995. The court ruled that it was constrained to deem the action untimely but urged the Legislature to adopt a new "discovery rule" for sex abuse cases.

Editor's Note: An Act to amend the civil practice law and rules in relation to extending the statute of limitations in New York for certain sex offenses was introduced in the Senate on April 14, 1997 (S.B. 4477) but was not passed this year.¹ A report prepared by the Committee on Civil Practice Law and Rules (CPLR 214) disapproved the bill, noting that the supporting memorandum for the bill stated that its purpose is "to recognize that children who are victims of sexual abuse often suffer from repressed memory syndrome." The CPLR report noted that the bill would defeat the "core" purpose of the statute of limitations, i.e., "to avoid the litigation of stale claims after the evidence is no longer reliable or even available, and to provide certainty in human affairs by putting an end to latent claims" [citations omitted]. The report further noted that "the sole rationale for this dramatic change in the statute of limitations is the belief that repressed memory syndrome is common among child victims of sexual abuse. In fact, the theory of recovered memory itself is highly controversial" [cites AMA Report of Council on Scientific Affairs, adopted at 1994 AMA House of Delegates Annual Meeting].

1. Similar bills have been introduced in New York but not passed in previous years, e.g., 1995 S.B. 3522, 1996 S.B. 1624.



SETTLEMENTS

Linda Bean v. Mark Peterson, Carol Peterson,
Cheshire County Superior Court, Case No. 95-E-0038

Linda Bean and her husband originally brought suit in 1995 against her psychologist, Mark B. Peterson and his wife, certified social worker Carol S. Peterson of Dublin, New Hampshire for alleged malpractice. As reported in the *Monadnock Ledger* in May, 1995,¹ the suit alleged that Linda Bean's treatment included an unacceptable form of therapy known as "reparenting" and that Mark Peterson had temporarily convinced her that she suffered from

Multiple Personality Disorder and had been "programmed as a child as part of a Satanic cult." The suit further alleged that Mark Peterson convinced Linda Bean to sue a close family member out-of-state for alleged sexual abuse and that both Petersons gave false testimony in that suit. The trial was scheduled for November but settled under confidential terms on July 30, 1997.

1 Poor, Eric, "Jaffrey couple brings suit over malpractice: Beans charge that Dublin psychologist abused his position in treatment," *Monadnock Ledger*, May 18, 1995, p. 15.

Downing v. McDonough

Essex County Superior Court, Massachusetts

Jan Downing's lawsuit brought against her former therapist, Thomas McDonough in 1994 was reported in *The New York Times* on April 24, 1994.^[1] The article describes her therapist telling her that unless she retrieved memories of sexual abuse, she would not get better. After six years of therapy and following her mother's death, Downing began to question the validity of her memories and the methods of her therapist. Her story was also featured on the CBS Television news program, *Sixty Minutes*, on April 17, 1994. On June 11, 1997, the lawsuit was resolved between the parties under confidential terms.

1 Rierden, Andi, "When a buried truth wants out, is it real?" *The New York Times*, April 24, 1994, Section 14CN, p. 1. See, also, McKenna, M.A.J., "'Abuse' back-lash builds: 'Victims' deny 'memories,' sue therapists," *The Boston Herald*, April 8, 1994, p. 4S.

Lawsuit Against Attorney Settled in Pennsylvania

A New Jersey couple settled their lawsuit against Pennsylvania attorney Nancy Wasser who had represented their daughter in a lawsuit against them in 1990. The lawsuit accused the couple of sexually and satanically abusing their daughter from ages six months to 18 years, with nothing to corroborate the allegations. The suit was dismissed with prejudice in 1995 (see March 1995 *FMSF Newsletter*).

In 1992, without a retraction from their daughter, the couple filed a third-party lawsuit against their daughter's health care workers and their Agency which settled in that case (see February 1996 *FMSF Newsletter*).

The counts in the complaint against Ms Wasser included: Wrongful Use of Civil Proceedings; Intentional Infliction of Emotional Distress; Negligent Infliction of Emotional Distress; and Invasion of Privacy (the defendant publicly disclosed allegations against the couple in at least three television appearances and in several newspaper articles).

As far as the Foundation is aware, this is the first lawsuit brought against an attorney for filing a suit based on "repressed memories."

After being involved in litigation for nearly seven years, the couple feel that with the settlement in this last lawsuit,

those responsible for the harm done to their family have been held accountable.



ACTION TAKEN

George Franklin files suit against daughter, psychiatric witness, therapist and county officials

George Franklin v. Lenore Terr, et al., United States District Court, Northern District of California, No. C97-2443 SBA

Background: George Franklin was convicted in 1990 of a murder based on his daughter Eileen's repressed memory testimony. Franklin's criminal trial was the first in the nation involving the then largely unknown phenomenon of repressed memories. After serving almost seven years of a life sentence, Franklin's murder conviction was overturned in 1995 by U.S. District Judge D. Lowell Jensen.^[1] The 9th Circuit Court of Appeals affirmed and adopted Judge Jensen's 51-page opinion which held violations of the United States Constitution in the trial had a substantial and injurious effect on the jury's verdict.^[2] Among other errors, the court held that the prosecution's emphasis throughout the trial that Franklin's refusal to deny Eileen's accusation during a jailhouse visit "compellingly" proved his guilt, and the trial judge's jury instruction that this circumstance could be considered an admission of guilt, violated Franklin's constitutional rights. The court also found that due to the prosecution's involvement in the jailhouse visit, Eileen had acted as a government agent in violation of Franklin's Fifth Amendment right to counsel.^[3] In addition, Judge Jensen found that Franklin's constitutional rights were further violated by the erroneous exclusion of defense evidence of newspaper articles about the murder. The prosecution last year decided not to retry the case following a June, 1996, hearing in which Eileen's sister, Janice, testified that both she and Eileen had been hypnotized by therapist Kirk Barrett before the first trial.^[4] This contradicted Eileen's trial testimony that she had not been hypnotized but had falsely told family members she had been hypnotized because she thought they would be more likely to believe her story.

The current case: Two years after his murder conviction was overturned, George Franklin, in a highly publicized move, filed a civil suit in Federal Court on June 30, 1997 against his daughter Eileen Franklin-Lipsker, her therapist Kirk Barrett, psychiatric expert witness Dr. Leonore Terr, San Mateo District Attorney Jim Fox and several San Mateo County officials. The complaint for violation of civil rights and pendent state claims states eight causes of action. The suit alleges, *inter alia*: i. that the acts and omissions regarding the use of hypnosis and perjured testimony were made pursuant to a conspiracy among defendants Eileen, Barrett

and San Mateo County Officials to deprive plaintiff Franklin of liberty without due process of law and the right to confront the witnesses against him in violation of his Fifth, Sixth and Fourteenth Amendment rights; ii. that San Mateo County officials, knowing that Franklin had been given his Miranda warnings and aware that they were forbidden to contact plaintiff without the presence of his counsel, conspired to have Eileen visit her father in jail in order to unlawfully obtain a statement of confession from him and having failed to obtain one, wrongfully used his silence against him at trial in violation of his Fifth, Sixth and Fourteenth Amendment rights; iii. that certain defendants conspired to introduce perjured testimony denying Eileen's exposure to, and use of, public domain information which would have undermined her credibility about her supposed unique source of eyewitness knowledge when in fact, it was known the information was widely available in the press; iv. that the prosecution's expert witness, Dr. Lenore Terr, a psychiatrist and author of a book about the case, (*Unchained Memories*) conspired with Deputy District Attorney Elaine Tipton to present knowingly false testimony regarding recovered memories without any basis in social science research, in violation of Terr's duties as a licensed psychiatrist; and v. that prior to 1996, Eileen told certain defendants that she remembered Franklin committing additional murders which were found to be false.

Nonetheless, District Attorney Jim Fox publicly maintains that Franklin is guilty of the murder.[5] In his first public appearance since his release last year, Franklin said, "However nutty or even malicious Eileen's accusations were, they would have had little effect on my life if the other defendants in this case ... had acted responsibly." [6]

The suit seeks, in part, compensatory and punitive damages for the loss of Franklin's liberty, income and reputation and nominal damages of \$1 against his daughter Eileen.

1 *Franklin v. Duncan*, 884 F.Supp. 1435 (N.D. Cal. 1995); See, FMSF Brief Bank No. 52

2 *Franklin v. Duncan*, 95 C.D.O.S. 8806 (1995).

3 The defense was unaware that the prosecution had assisted Eileen until after the trial and publication of her book, *Sins of the Father*.

4 Associated Press, "Repressed-memory case won't be tried again," *The New York Times*, July 3, 1996.

5 See, Simon, Mark, "DA refuses to repress memory case opinions," *The San Francisco Chronicle*, July 2, 1997, p. A13. "Told by a TV reporter yesterday that Franklin said he'd drop the suit if Fox apologized, the district attorney said: 'I'll apologize. I'm very sorry Mr. Franklin is out of custody.'"

6 Vasquez, Daniel, "Repressed memory under fire: Franklin alleges trial conspiracy, seeks damages," *San Jose Mercury News*, July 1, 1997.



HIGH COURTS TO REVIEW ISSUE OF THIRD-PARTY STANDING IN PENNSYLVANIA AND NEW HAMPSHIRE

Can therapists be held accountable for a recovered memory?

The Union Leader (Manchester, NH), August 10, 1997, Section A, p. 3. Hungerford v. Jones, U.S. District Court, Concord New Hampshire, Case No. 96-C-599-M

Joel Hungerford filed a \$2 million lawsuit against his daughter's therapist, Susan L. Jones, last November in federal district court after his daughter, Laura Bachman, accused him of sexual abuse after undergoing therapy. Last month, prosecutors dropped the criminal charges brought in 1993, following the state Supreme Court's recent ruling that the recovered memories were not reliable.[1] In Hungerford's ongoing civil lawsuit, the federal district court dismissed his claims against the therapist for defamation, intentional infliction of emotional distress and loss of consortium. However, it withheld ruling on Hungerford's claim against the therapist for negligence, instead referring two questions to the New Hampshire Supreme Court: Does a mental health care provider owe a legal duty to the father of an adult patient to diagnose and treat the patient with requisite skill and competence of the profession when the diagnosis is that the father sexually abused or assaulted the patient? Does a mental health care provider owe a duty to act with reasonable care to avoid foreseeable harm to the father of an adult patient resulting from treatment or other action taken in relation to mental health conditions arising from the diagnosis of past sexual abuse or assault? The federal court said it could not rule on the therapist's motion to dismiss Hungerford's claims of negligence and professional malpractice until the common law questions were answered.

1 *State of New Hampshire v. Hungerford / Morahan*, 1995 WL 378571 (N.H. Super. Ct. May 23, 1995), *aff'd*, 1997 WL 358620 (N.H. July 1, 1997).



Althaus v. Cohen, Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, Case No. 92-20893; Superior Court of Pennsylvania No. 1138 Pittsburgh 1996.

The Superior Court of Pennsylvania has ordered re-argument, en banc (by the full court) on defendant's appeal which claims error on the issue of liability by a psychiatrist to a third party. The appeal stems from the trial judge's pre-trial finding that a duty was owed by the psychiatrist to persons other than the patient. Following the ruling, in December 1994 a jury awarded the parents and daughter \$272,232.07 in compensatory damages against the daughter's psychiatrist, Dr. Judith A. Cohen, for failure to properly diagnose and encouraging her to believe in nonexistent events, including parental sexual abuse and Satanic ritual abuse. The hearing is scheduled for September 3, 1997 at 1:00 p.m.

Thoughts and Observations

from the Father of a Retractor
Saul Wasserman, M.D.

The following observations refer only to adults who fit the typical FMS pattern. Because people enter therapy for many reasons and because their personal and family situations are so variable, what I have to say will certainly not apply in all situations. Further, because these are general thoughts, they are not meant to represent an analysis, advice or clinical direction in any specific situation. I am speaking in a personal, not a professional capacity. With these caveats...

1. Once established, the sexual abuse survivor belief system is a closed system. Sending cognitive material such as books or articles about FMS is not likely to be productive because it is cognitively dissonant and people are inoculated against it.

2. The people in the system have usually developed extremely dependent relationships with their therapists as they cut themselves off from their prior belief and social network. It's unlikely that a person will abandon the beliefs as long as the close relationship remains. This excessive dependency is not sustainable over the long term.

3. Often the dependent relationship cannot be sustained because the person runs out of money; the accuser doesn't get better and the therapist tires of the process; the accuser discovers that the therapist is not the idolized figure; or because of the flow of life—people move away, etc.

4. Once separate from the therapist, some accusers slowly start to feel a desire to reconnect in some way with the family albeit usually on very limited terms.

5. Families can sometimes support that process not by challenging bad memories or images but by holding onto, remembering and discussing good memories and images.

6. Being able to have some form of communication is infinitely better than no communication.

7. Some retractors report that they first rethought the situation in response to information they got through the media. Discussions about the issue on talk shows

and TV programs about the issue do seem to help—when the person is open or ready to hear them.

8. It may be better to agree, on an interim basis, not to have confrontations on the issue of the alleged abuse, and focus more energy on restoring the relationship in other areas and ways. This allows the parent to be seen more as a human and less as a monster.

9. There may have been problems in the parent-child relationship prior to the person entering therapy. Being accepting and open about these rather than being defensive probably helps the reconciliation process.

10. Sometimes retractors have realized that they have gone astray when they changed therapists and began working with mainline (non RMT) therapists. A mainline therapist may be very helpful.

11. The process of retraction is emotionally very difficult. It is a process and not an event. It takes quite a period of time—six months to a year is not unusual. During this time the person going through it is torn with doubt and confusion. The abuse images and memories are quite vivid (more vivid, I think than normal memories) and they persist even when the person starts to doubt their validity. In effect you have to tell yourself that something that seems real is not—somewhat akin to the phenomenon of phantom pain—pain from an amputated limb.

12. It seems best not to blast the accuser with the anger the falsely accused person feels. Try to remember that as much as the parent's life has been disrupted, the child's life has been more disrupted. Families who have been reunited consistently report that the process goes better when they struggle to hold onto a loving, rather than an angry stance. I admit this is at times not easy.

13. It's said that 95% of the people who join cults eventually leave them. This situation is cult-like and it's likely that many (but not all) of the accusers will, if their families live long enough, reestablish contact. If the peak of RMT was 1988-92, and the number of retractors is now increasing, we can estimate that the process could easily take 3-10 years.

MAKE

a

DIFFERENCE

When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.

Edmund Burke Vol. I, p. 526.
Thoughts on the Cause of the Present Discontent

This is a column that will let you know what people are doing to counteract the harm done by FMS. Remember that five years ago, FMSF didn't exist. A group of 50 or so people found each other and today more than 18,000 have reported similar experiences. Together we have made a difference. How did this happen?

California: A Mom wrote that after two years of writing to Ann Landers, she was ready to give up, but she didn't! She sent her next letter "priority mail" and she got results. In June, Ann Landers had a letter about FMS. It is clear that persistence pays. So this Mom's advice is to continue to write, call and fax.

California: A Dad advised: "The George Franklin case in California has received national press. Now that Franklin has filed suit against his daughter, her therapist, the prosecutors and an expert witness there will be additional attention. I think this is a golden opportunity for family members to speak out. When you see an article in the newspaper or a magazine, write to the reporter and send a carbon copy to the editor. When you see something on TV news shows like "Dateline," write and tell them your story. When you hear the topic on your local talk radio, call in! The more people who speak up, the sooner this nightmare will come to an end."

Missouri: About 4 months ago I gave copies of three books to three branches of the public library. The books were: *Second Thoughts, Making Monsters*, and *Beware the Talking Cure*. The books have been checked out almost continually since they hit the shelves. One branch even ordered another copy of *Beware the Talking Cure* to meet the back-log of requests. I don't think the issue is dead yet here. I am pleased with the way the books have been received.

Send your ideas to Katie Spanuella c/o
FMSF.

Retreading Common Ground v. Middle Ground

Dear Editor:

I write in response to two letters published in the July/August Newsletter commenting on my letter in the June issue.

I agree with Michele Gregg that competent therapists have an ethical responsibility publicly to discourage use of suggestive forms of memory-recovery work in therapy. My point was that there is a widespread misperception to the effect that the FMSF dismisses all or virtually all recovered-memory experiences as false memories, and that this misperception undermines support for the Foundation.

I was not persuaded by Paula Tyroler's arguments against my use of the term "recovered-memory experience" (RME) to encompass both essentially accurate and essentially false memories. I note, however, that we agree on the central issue, in that Tyroler did allow for the possibility of essentially accurate recollections of long-forgotten childhood sexual abuse. Tyroler proposed to refer to such cases with a "fresh neutral term" such as "intermittent recollection," but the proposed terms are not neutral—rather, they presuppose the essential accuracy of the remembering experiences in question (just as Tyroler's preferred use of the term "recovered memories" appears to presuppose the essential fallaciousness of those remembering experiences). It is very likely that some subjective experiences of remembering childhood sexual abuse (RMEs) are essentially accurate ("forgotten-and-remembered"), others are essentially illusory products of suggestion and imagination ("false memories"), and yet others combine essentially accurate and inaccurate material.

Tyroler and, in a separate article in the same issue, Allen Feld claimed that corroboration is essential. If I understand their arguments correctly, they hold that reports of childhood sexual abuse based on recovered-memory experiences should be viewed as false unless corroborated. Feld said there is no "middle line" on the need for corroboration. I suggest that the definition of the middle ground, with respect to this particular issue, has to do with the definition of the term "corroboration." If the term is defined along the lines of "unambiguous material evidence," many genuine reports of abuse would falsely be dismissed because such evidence is often lacking even in genuine abuse cases. In contrast, if "corroboration" is defined as the existence of any evidence that might be construed by some as supporting the allegations (e.g., the complainant's relationship difficulties in adulthood), then many false allegations would erroneously be classified as "corroborated." Thus, although Mr. Feld may be correct in saying that there is no room for debate about the need for corroboration, there is plenty of room for both extremism and a middle ground when it comes to the definition of corroboration.

Concerns regarding corroboration will be lessened (albeit not eliminated) if we can convince practitioners, publishers, and the popular media to stop promoting approaches likely to contribute to the development of false memories. This is a goal I share with Feld, Gregg, and Tyroler, and with the FMSF. I believe that it is important that this goal be pursued in ways that will not undermine support for genuine victims of childhood sexual abuse. I also believe that the public and professional image and credibility of the FMSF can be enhanced by continued unambiguous statements making clear that the Foundation does not dismiss all RMEs as false, does not categorize all practitioners who work with sexual abuse issues as dangerous therapists,

does not condone harassment of therapists, etc. The more often and more clearly such statements are made, the harder it will be for critics to dismiss the FMSF as reactionary and extremist.

Yours sincerely,

D. Stephen Lindsay, Ph.D.
Unilever Senior Research Fellow
Prof of Psychology, U Victoria



Dear Editor,

The premise of a reconciliatory "middle ground" approach is expressed by a statement such as "some recovered memories are true and some are false." This statement can be made only by lumping together two totally different mental categories: the "repressed-and-recovered memories" and the "re-remembered memories." The statement "Some recovered memories are true and some are false" is acceptable to therapists, especially those who engage in memory recovery work. It legitimizes their actions regardless of the outcome and it permits them to continue in their often harmful activities.

On the other hand, this statement is totally unacceptable to the individuals accused on the basis of "repressed-and-recovered memories" and their supporters. It implies that some (a few? many? most?) of the people who report that the accusation was based on "recovered memories" are actually guilty (because "...some recovered memories are true.") It puts the presumption of innocence on its head.

A middle of the road approach will not, cannot, lead to reconciliation of the two parties involved. On the contrary, it will only deepen the gap between them. It does not offer a practical guideline that would lead us out of this therapy-induced mess. The quest for rigorous corroboration of the "recovered memories" offers this guideline and it should be acceptable, without any reservations, to both the

ethical therapists and to the falsely accused individuals.

Paula Tyroler, Ph.D.



AN OPEN LETTER TO STEVE LINDSAY

Dear Steve,

Your letter to the editor serves the useful purpose of allowing me to attempt to clarify the importance and use of corroboration. The definition is indeed elusive and will frequently vary by the interests and values of the definer and the individual situation. However, it is clear you misunderstand and misstate my argument. At no time do I indicate what you attribute to me: "...reports of childhood sexual abuse based on recovered memory experience should be viewed as false unless corroborated." What I believe is that these kinds of memories are uncertain, neither true or false, and the veracity of these kinds of memories can only be determined by corroboration. To further define my position, let's first examine corroboration from two perspectives, that of a therapist and that of a client.

When should a therapist tell his/his client that "I believe that your new memories of sexual abuse are true?" My answer is, when there is certainty: a confession by the abuser, a witness to the abuse, and/or unambiguous physical evidence. The stakes are too high for everyone concerned to accept anything less.

You point out the perplexing dilemma that "... many genuine reports of abuse would falsely be dismissed...". That may be a likely outcome that no one wants to see. Unfortunately, research underscores the inability of even highly-trained therapists to distinguish when clients are being truthful and when they are not. In fact, therapists' ability to differentiate true from false statements seems no better than chance or the

ability of non-therapists. The other side of the dilemma, that "Many false reports of abuse would lead to wrongful imprisonment, unnecessary lawsuits and family devastation," describes outcomes neither of us want.

Let's look at corroboration from a client's perspective. When should a client say, "I believe that my new memories of sexual abuse are true?" This is a more troubling question because people have a right to choose what they believe and assume the responsibility to live with their choices. I have no Solomon-like wisdom to even deem to answer this kind of question beyond what I've written above. What would you suggest should be the level of support for these newly-created memories? When would it be in the best interest of a client to decide that she/he is a victim of abuse when that abuse is uncertain? When would it be in the best interest of a client to sever family ties when the new memories are unverified beyond a client's (or therapist's) belief? How is it helpful for anyone to attach reality to a belief of being sexually abused when there is no objective foundation for that belief?

What standards of corroboration would you require to address the two circumstances I pose in this letter? How would your answers compare to what should be the standard in the courts in our two countries? Individuals' and society's interests are better served when people accept the likely ambiguity and uncertainty that often exist in the circumstances of new memories of abuse by adults. I am unable to find a "middle ground" on corroboration that excludes an objective dimension. Since you are the one suggesting there may be one, it seems reasonable that the burden is for you to define such a standard.

Finally, I feel it is important to respond to your continuing concern that the Foundation make it clear that it does not dismiss all claims of what you call the "recovered memory experi-

ence." By confusing and merging what has been historically the position of the Foundation (that some memories may be true, some false and some a mixture of both) with "perceptions" of the Foundation's position created by others (that all recovered memories are false), you may unintentionally add to the myth that the Foundation is hostile to all "recovered memories." Inaccurate perceptions about the Foundation are shaped by some who have little knowledge of the Foundation's position and rely on misinformation spoken and written by others. I am certain you would not want to inadvertently add to this misperception.

Allen Feld

Allen Feld is Director of Continuing Education for the FMS Foundation. He has retired from the faculty of the School of Social Work at Marywood College in Pennsylvania.



A Thank You

Dear "K" and "L",

Bless you! I'm sure your efforts on behalf of FMSF played a big part in our happiness today. Here is the latest:

Our daughter lives within 25 miles of you. Because of all the publicity that you obtained because of the Ellen Bass lecture at Marquette and then with all the publicity about the judgment in favor of Nadean Cool in Wisconsin, I am certain that my daughter was exposed to information laying bare the problems of recovered memory therapy.

Last December, my daughter came to visit her sister and we were invited. Then on Mother's Day, I received a plant from my daughter and her family. Last month, my daughter and her family came to visit us.

While my husband wants to press for answers, a talk with folks at the FMS Foundation convinced us that maybe it is better to take it easy, as recanting is very slow.

So while you may not realize it,

your work has done some good. Perhaps we all may be helping someone else. I believe your efforts have helped us. Thanks and we will pray for your success with your daughter.

Affectionately,
"E"

A United Family

My accusing daughter, believing that a sister feminist would never blow a case this badly, had asked for a family confrontation. The psychiatrist told my daughter I would probably confess. When I would not confess, she admitted to being puzzled by my objections to her conclusions. The psychiatrist was unequal to the task of convincing our large and united family that her diagnosis was not to be questioned.

Our daughter has returned and is affectionate and maybe even warmer than she was in the past. It took a long time for the full recovery of the family. I thank God that the damage was as little as it was.

Everyone in our family wonders how a reputable psychiatrist could have been incapable of asking herself, "What if I am wrong?" Even more, we wonder, "How could a sensible human being believe that a charge of incest was of so little consequence?"

A Dad

Message from a Retractor

The FMS Foundation conference "Memory and Reality: The Next Steps" was held in Baltimore on March 22 and 23. It was a pleasure meeting many of you there. The conference was emotional and motivating for me. On Friday night, just the sight of all those parents in line to register was heart-breaking. The parents were wonderful, and always so excited and pleased to find a retractor. One father told my husband, "When she said she was a retractor, I just wanted to hug her!"

During a few of the presentations on Saturday, I felt somewhat awkward.

There were times, for example, when parents would laugh about some of the more ludicrous "memories" (eating babies, etc.). Perhaps it was just nervous laughter, and I certainly don't think any of the parents meant to offend retractors, but it's hard to laugh when you once believed similar ridiculous but horrible things. I think that's part of the value in having retractors connected with the FMS Foundation—only we can point out to them our own unique perspective. There is so much pain on all sides of this issue; it's easy to forget what other family members might be experiencing and, in doing so, direct our anger at each other instead of at the therapy. I overheard parents talking about how their hearts bled for the retractors on the panels, and I had an accuser's sibling who attended tell me that the conference helped him to understand the sister who is supporting his accusing sister. To those of you who attended, I would love to hear your thoughts.

Donna Anderson "The Retractors' Voice"
Issue No 2, July 1997 (Contact Donna
Anderson, 6085 Byram Lake Drive,
Linden, Michigan 48451 for information
about "The Retractors' Voice")

Ex-Spouses of FMS Victims

I spent 10 years of my life involved with my wife's therapy. Then my wife sent "The Letter" to her kind, loving and considerate parents. They told her to "get real" and refused to pay for her questionable therapy. My wife then moved out, abandoning our daughter, and sued me for divorce with life-time alimony.

I would like to make contact with other ex-spouses. How do others deal with custody issues, children's visitation with a disturbed parent, harassment, feelings of anger that a therapist encouraged divorce, and concerns about relationships with former in-laws? You can write to me, David P., at the FMS Foundation.

Conference at Quinnipiac College School of Law (CT)

November 14, 1997

On Friday, November 14, 1997, the Quinnipiac College School of Law will present an all-day conference on the subject of recovered memories of child sexual abuse, entitled "Weighing the evidence of recovered memories: Legal, scientific and clinical issues." The conference will bring together speakers with varying perspectives on the issue, including several scientists at the forefront of memory research. The speakers will include: Pamela Freyd, Ph.D., director of the False Memory Syndrome Foundation; Mark Pendergrast, author of "Victims of Memory;" Jerome Singer, Ph.D., Professor and former Chair of the Yale University Department of Psychology; Attorney Charles Fleischmann, who represented the defendants in the case of Borawick v. Shay; Jonathan Schooler, Ph.D., research psychologist at the University of Pittsburgh; Stephen Lindsay, Ph.D., research psychologist at the University of Victoria; Anita Lipton, Coordinator of Legal Research for the False Memory Syndrome Foundation; and Robin Grant-Hall, Ph.D., a clinical psychologist who specializes in trauma.

There is no fee for attending the conference, but advance registration is requested as lunch will be served to attendees. The college is located in Hamden, Connecticut, just outside of New Haven. For those who require lodging, some rooms are available at the Wallingford Marriott at \$99 per night. For information and reservations, please contact Pam Castellano at (203) 287-3254.

1ST MEETING
EL PASO, TEXAS
October 8, 1997

For details contact
Mary Lou at 915-591-0271

STATE MEETINGS

Call persons listed for info & registration

3 EVENTS IN THE ROCKY MOUNTAIN REGION

When Memories Lie...Legal, Social, Psychological and Emotional Impact of Recovered Memory Therapy

Speakers:

Pamela Freyd, Ph.D.; Eleanor Goldstein;
David Lane (Attorney)
Amos Martinez (CO Grievance Board);
Richard Ofshe, Ph.D.
The Rutherford Family

Friday October 3, 1997 Ft. Collins CO

8:00 AM - 5:00 P.M.

Mountain Crest Behavioral Healthcare
System
4601 Corbett Drive (off E. Harmony Rd)

seminar repeated

**Saturday, October 4, 1997
Greeley, CO**

8:00 AM - 5:00 P.M.

University of Northern Colorado
University Center
(corner of 20th & 11th Ave)

Admission fee for Friday and Saturday
seminars: \$15.00 including lunch
(sandwiches from Quiznos)

To register contact Lori DeWeese at
970-225-9191

For FMS Families - Meet the Rutherfords

Sunday October 5, 1997

1:00 P.M. to 4:30 P.M.

Life Fellowship Church:
11500 Sheridan Blvd
Westminster, CO 80020

The Rutherfords will answer questions we all have about how to work through and survive the devastation of age regression therapy.

No Admission fee:

For information about the Sunday program call Ruth 303-757-3622.

ILLINOIS FMS SOCIETY

What is the Mental Health Industry doing to stop "Junk Therapy?"

October 18, 1997 9AM to 5PM

Schaumburg Marriott
50 North Martingale Road
Schaumburg, IL 60173

Keynote Speaker: Tana Dineen, Ph.D.
Author of Manufacturing Victims

EVERYONE WELCOME

Call 847-240-0100

Fax 847-240-0120

Donation: \$35 person, \$60/couple,
Includes lunch

(\$5/ person additional at the door)

Reservations requested by October 4.
Call 815-467-6041

Fax 815-467-7764

e-mail: welgal@aol.com

NORTHERN MOUNTAIN

REGION- MONTANA

Saturday, October 18, 1997

Helena, MT

Speakers:

Pamela Freyd and the Rutherford family
Contact Lee & Avone (406) 443-3189

TRI - STATE MEETING

PENNSYLVANIA, NEW JERSEY AND DELEWARE

Saturday, November 1, 1997

Guest Speakers will include: The
Rutherford Family

Contact Jim & Jo: 610-783-0396

FLORIDA

**"Crisis in the Church:
Counseling Abuse"**

November 14 & 15, 1997

Rollins College, Winter Park

Presented by Central Florida Friends of
FMSF and Rollins College, with the
cooperation of the
Florida Council of Churches.

Speakers:

Paul Simpson, Ed.D., A Tucson, AZ psychologist and professional family mediator.

The Rutherford Family, who settled a lawsuit against a church therapist, a church and its pastor for \$1 million.

Elizabeth Carlson, Retractor who was awarded \$2.51 million by a jury because her therapist implanted false memories of sexual abuse.

Don Russo, A Miami attorney who represented a retractor who received a \$650,000 settlement from therapist who implanted false memories of sexual abuse.

Robin Symons, A Miami trial attorney who defended a father falsely accused in a lawsuit filed against him by his daughter.

Two parents whose daughters received regression therapy by Christian counselors before accusing their fathers of childhood sexual abuse.

Advanced registration for the conference is \$25.00 for the first person, and \$15.00 for each additional person from the same family or congregation (in the same mailing). Students may register for \$10.00

Special Family Meeting

Friday night, November 14, 7:00 - 10:00 P.M.

There will also be a meeting for falsely accused families on the Rollins campus. Dr. Simpson and the Rutherfords will discuss coping and reconciliation. For a brochure or more information about these programs, please contact John and Nancy at 352-750-5446 or Email at <http://www.johnbell@totcon.com>.

KEY: (MO) - Monthly; (bi-MO) - bi-monthly
(*) - see the State Meetings List, page 17.

CONTACTS & MEETINGS - UNITED STATES

ALASKA

Bob (907) 586-2469

ARIZONA

Barbara (602) 924-0975;

854-0404(fax)

ARKANSAS

Little Rock

Al & Lela (501) 363-4368

CALIFORNIA*

Sacramento - (quarterly)

Joanne & Gerald (916) 933-3655

Rudy (916) 443-4041

San Francisco & North Bay - (bi-MO)

Gideon (415) 389-0254 or

Charles 984-6626(am); 435-9618(pm)

East Bay Area - (bi-MO)

Judy (510) 254-2605

South Bay Area - Last Sat. (bi-MO)

Jack & Pat (408) 425-1430

3rd Sat. (bi-MO) @ 10am

Los Angeles County

Cecilia (310) 545-6064

Central Coast

Carole (805) 967-8058

Central Orange County - 1st Fri. (MO) @ 7pm

Chris & Alan (714) 733-2925

Orange County - 3rd Sun. (MO) @ 6pm

Jerry & Eileen (714) 494-9704

Covina Area - 1st Mon. (MO) @ 7:30pm

Floyd & Libby (818) 330-2321

San Diego Area

Dee (619) 941-0630

COLORADO

Denver - 4th Sat. (MO) @ 1pm

Art (303) 572-0407

CONNECTICUT

S. New England - (bi-MO) Sept-May

Earl (203) 329-8365 or

Paul (203) 458-9173

FLORIDA*

Dade/Broward

Madeline (305) 966-4FMS

Boca/Delray - 2nd & 4th Thurs (MO) @ 1pm

Helen (407) 498-8684

Central Florida - 4th Sun. (MO) @ 2:30 pm

John & Nancy (352) 750-5446

Tampa Bay Area

Bob & Janet (813) 856-7091

GEORGIA

Atlanta

Wallie & Jill (770) 971-8917

HAWAII

Carolyn (808) 261-5716

ILLINOIS

Chicago & Suburbs - 1st Sun. (MO)

Eileen (847) 985-7693

Joliet

Roger & Liz (815) 467-6041

Rest of Illinois

Bryant & Lynn (309) 674-2767

INDIANA

Indiana Assn. for Responsible Mental Health Practices

Nickie (317) 471-0922; fax (317) 334-9839

Pat (219) 482-2847

IOWA

Des Moines - 2nd Sat. (MO) @ 11:30 am Lunch

Betty & Gayle (515) 270-6976

KANSAS

Kansas City - 2nd Sun. (MO)

Leslie (913) 235-0602 or

Pat (913) 738-4840

Jan (816) 931-1340

KENTUCKY

Louisville - Last Sun. (MO) @ 2pm

Bob (502) 957-2378

LOUISIANA

Francine (318) 457-2022

MAINE

Bangor

Irvine & Arlene (207) 942-8473

Freeport - 4th Sun. (MO)

Carolyn (207) 364-8891

MARYLAND

Ellicott City Area

Margie (410) 750-8694

MASSACHUSETTS/NEW ENGLAND

Andover - 2nd Sun. (MO) @ 1pm

Ron (508) 250-9756

Frank (508) 263-9795

MICHIGAN

Grand Rapids Area-Jenison - 1st Mon. (MO)

Bill & Marge (616) 383-0382

Greater Detroit Area - 3rd Sun. (MO)

Nancy (810) 642-8077

MINNESOTA

Terry & Collette (507) 642-3630

Dan & Joan (612) 631-2247

MISSOURI

Kansas City - 2nd Sun. (MO)

Leslie (913) 235-0602 or Pat 738-4840

Jan (816) 931-1340

St. Louis Area - 3rd Sun. (MO)

Karen (314) 432-8789

Mae (314) 837-1976

Refractors group also forming

Springfield - 4th Sat. (MO) @ 12:30pm

Dorothy & Pete (417) 882-1821

Howard (417) 865-6097

MONTANA*

Lee & Avone (406) 443-3189

NEW JERSEY (So.)

See Wayne, PA

NEW MEXICO

Albuquerque - 1st Sat. (MO) @ 1pm

Southwest Room - Presbyterian Hospital

Maggie (505) 662-7521(after 6:30pm) or

Martha 624-0225

NEW YORK

Westchester, Rockland, etc. - (bi-MO)

Barbara (914) 761-3627

Upstate/Albany Area - (bi-MO)

Elaine (518) 399-5749

Western/Rochester Area - (bi-MO)

George & Eileen (716) 586-7942

NORTH CAROLINA

Susan (704) 481-0456

OKLAHOMA

Oklahoma City

Dee (405) 942-0531

HJ (405) 755-3816

Rosemary (405) 439-2459

PENNSYLVANIA

Harrisburg

Paul & Betty (717) 691-7660

Pittsburgh

Rick & Renee (412) 563-5616

Montrose

John (717) 278-2040

Wayne (includes S. NJ) - 2nd Sat. in June @

1pm (No meeting in September or October)

Jim & Jo (610) 783-0396

TENNESSEE

Wed. (MO) @ 1pm

Kate (615) 665-1160

TEXAS

Houston

Jo or Beverly (713) 464-8970

El Paso

Mary Lou (915) 591-0271

UTAH

Kelth (801) 467-0669

VERMONT

(bi-MO) Judith (802) 229-5154

VIRGINIA

Sue (703) 273-2343

WEST VIRGINIA

Pat (304) 291-6448

WISCONSIN

Katie & Leo (414) 476-0285

Susanne & John (608) 427-3686

CONTACTS & MEETINGS - INTERNATIONAL

BRITISH COLUMBIA, CANADA*

Vancouver & Mainland - Last Sat. (MO) @ 1-

4pm

Ruth (604) 925-1539

Victoria & Vancouver Island - 3rd Tues. (MO)

@ 7:30pm

John (250) 721-3219

MANITOBA, CANADA

Winnipeg

Joan (204) 284-0118

ONTARIO, CANADA

London - 2nd Sun. (bi-MO)

Adrian (519) 471-6338

Ottawa

Eileen (613) 836-3294

Toronto / N. York

Pat (416) 444-9078

Warkworth

Ethel (705) 924-2546

Burlington

Ken & Marina (905) 637-6030

Sudbury

Paula (705) 692-0600

QUEBEC, CANADA

Montreal

Alain (514) 335-0863

St. André Est.

Mavis (514) 537-8187

AUSTRALIA

Irene (03) 9740 6930

ISRAEL

FMS ASSOCIATION fax-(972) 2-259282 or

E-mail-fms@netvision.net.il

NETHERLANDS

Task Force FMS of Werkgroep Fictieve

Herinneringen

Anna (31) 20-693-5692

NEW ZEALAND

Colleen (09) 416-7443

SWEDEN

Ake Moller FAX (48) 431-217-90

UNITED KINGDOM

The British False Memory Society

Roger Scofield (44) 1225 868-682

Deadline for the Oct. Newsletter is Sept. 15. Meeting notices MUST be in writing and should be sent no later than two months prior to meeting.

Copyright © 1997 by the FMS Foundation

3401 Market Street, Suite 130
Philadelphia, PA 19104-3315
Phone 215-387-1865 or 800-568-8882
Fax 215-387-1917
ISSN # 1069-0484

Pamela Freyd, Ph.D., Executive Director

FMSF Scientific and Professional Advisory Board

September 1, 1997

Aaron T. Beck, M.D., D.M.S., University of Pennsylvania, Philadelphia, PA; **Terence W. Campbell, Ph.D.**, Clinical and Forensic Psychology, Sterling Heights, MI; **Rosalind Cartwright, Ph.D.**, Rush Presbyterian St. Lukes Medical Center, Chicago, IL; **Jean Chapman, Ph.D.**, University of Wisconsin, Madison, WI; **Loren Chapman, Ph.D.**, University of Wisconsin, Madison, WI; **Frederick C. Crews, Ph.D.**, University of California, Berkeley, CA; **Robyn M. Dawes, Ph.D.**, Carnegie Mellon University, Pittsburgh, PA; **David F. Dinges, Ph.D.**, University of Pennsylvania, Philadelphia, PA; **Henry C. Ellis, Ph.D.**, University of New Mexico, Albuquerque, NM; **George K. Ganaway, M.D.**, Emory University of Medicine, Atlanta, GA; **Martin Gardner, Author**, Hendersonville, NC; **Rochel Gelman, Ph.D.**, University of California, Los Angeles, CA; **Henry Gleitman, Ph.D.**, University of Pennsylvania, Philadelphia, PA; **Lila Gleitman, Ph.D.**, University of Pennsylvania, Philadelphia, PA; **Richard Green, M.D., J.D.**, Charing Cross Hospital, London; **David A. Halperin, M.D.**, Mount Sinai School of Medicine, New York, NY; **Ernest Hilgard, Ph.D.**, Stanford University, Palo Alto, CA; **John Hochman, M.D.**, UCLA Medical School, Los Angeles, CA; **David S. Holmes, Ph.D.**, University of Kansas, Lawrence, KS; **Philip S. Holzman, Ph.D.**, Harvard University, Cambridge, MA; **Robert A. Karlin, Ph.D.**, Rutgers University, New Brunswick, NJ; **Harold Lief, M.D.**, University of Pennsylvania, Philadelphia, PA; **Elizabeth Loftus, Ph.D.**, University of Washington, Seattle, WA; **Susan L. McElroy, M.D.**, University of Cincinnati, Cincinnati, OH; **Paul McHugh, M.D.**, Johns Hopkins University, Baltimore, MD; **Harold Merskey, D.M.**, University of Western Ontario, London, Canada; **Spencer Harris Morfit, Author**, Boxboro, MA; **Ulric Neisser, Ph.D.**, Cornell University, Ithaca, NY; **Richard Ofshe, Ph.D.**, University of California, Berkeley, CA; **Emily Carota Orne, B.A.**, University of Pennsylvania, Philadelphia, PA; **Martin Orne, M.D., Ph.D.**, University of Pennsylvania, Philadelphia, PA; **Loren Pankratz, Ph.D.**, Oregon Health Sciences University, Portland, OR; **Campbell Perry, Ph.D.**, Concordia University, Montreal, Canada; **Michael A. Persinger, Ph.D.**, Laurentian University, Ontario, Canada; **August T. Piper, Jr., M.D.**, Seattle, WA; **Harrison Pope, Jr., M.D.**, Harvard Medical School, Boston, MA; **James Randi, Author and Magician**, Plantation, FL; **Henry L. Roediger, III, Ph.D.**, Washington University, St. Louis, MO; **Carolyn Saari, Ph.D.**, Loyola University, Chicago, IL; **Theodore Sarbin, Ph.D.**, University of California, Santa Cruz, CA; **Thomas A. Sebeok, Ph.D.**, Indiana University, Bloomington, IN; **Michael A. Simpson, M.R.C.S., L.R.C.P., M.R.C., D.O.M.**, Center for Psychosocial & Traumatic Stress, Pretoria, South Africa; **Margaret Singer, Ph.D.**, University of California, Berkeley, CA; **Ralph Slovenko, J.D., Ph.D.**, Wayne State University Law School, Detroit, MI; **Donald Spence, Ph.D.**, Robert Wood Johnson Medical Center, Piscataway, NJ; **Jeffrey Victor, Ph.D.**, Jamestown Community College, Jamestown, NY; **Hollida Wakefield, M.A.**, Institute of Psychological Therapies, Northfield, MN; **Charles A. Weaver, III, Ph.D.**, Baylor University, Waco, TX

Do you have access to e-mail? Send a message to

pjf@cis.upenn.edu

if you wish to receive electronic versions of this newsletter and notices of radio and television broadcasts about FMS. All the message need say is "add to the FMS list". You'll also learn about joining the FMS-Research list: it distributes research materials such as news stories, court decisions and research articles. It would be useful, but not necessary, if you add your full name: all addresses and names will remain strictly confidential.

The False Memory Syndrome Foundation is a qualified 501(c)3 corporation with its principal offices in Philadelphia and governed by its Board of Directors. While it encourages participation by its members in its activities, it must be understood that the Foundation has no affiliates and that no other organization or person is authorized to speak for the Foundation without the prior written approval of the Executive Director. All membership dues and contributions to the Foundation must be forwarded to the Foundation for its disposition.

The FMSF Newsletter is published 10 times a year by the False Memory Syndrome Foundation. A subscription is included in membership fees. Others may subscribe by sending a check or money order, payable to FMS Foundation, to the address below. 1997 subscription rates: USA: 1 year \$30, Student \$15; Canada: 1 year \$35 (in U.S. dollars); Foreign: 1 year \$40. (Single issue price: \$3 plus postage.)

Yearly FMSF Membership Information

Professional - Includes Newsletter \$125 _____
Family - Includes Newsletter \$100 _____
Additional Contribution: \$ _____

PLEASE FILL OUT ALL INFORMATION—PLEASE PRINT

___ Visa: Card # & exp. date: _____

___ Mastercard: # & exp. date: _____

___ Check or Money Order: Payable to FMS Foundation in U.S. dollars

Signature: _____

Name: _____

Address: _____

State, ZIP (+4) _____

Country: _____

Phone: (_____) _____

Fax: (_____) _____

LMS FOUNDATION
FALSE MEMORY SYNDROME
3401 Market Street, Suite 130
Philadelphia, Pennsylvania 19104 - 3315

FORWARDING SERVICE REQUESTED.